



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,620	12/11/2001	Stanley J. Wiegand	REG 334-A-US	1424

7590 09/13/2007  
Linda O Palladino  
Regeneron Pharmaceuticals Inc  
777 Old Saw Mill River Road  
Tarrytown, NY 10591

EXAMINER
----------

WEATHERBY, ELLSWORTH

ART UNIT	PAPER NUMBER
----------	--------------

3768

MAIL DATE	DELIVERY MODE
-----------	---------------

09/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/009,620

Applicant(s)

WIEGAND, STANLEY J.

Examiner

Ellsworth Weatherby

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,10,13-15,17,18,22,31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,10,13-15,17,18,22,31,33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/11/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: Stratmann et al, "Cell type-specific expression of angiopoietin-1 and angiopoietin-2 suggests a role in glioblastoma angiogenesis", American Journal of Pathology, 153(5): pg. 1459-1466, November 1998.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 4-7, 10, 13-15, 17-18, 22, 31 and 33-34 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4-7, 10, 13-15, 17-18, 22, 31 and 33-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Thorpe et al. (USPN 6,312,694)

Thorpe et al. '694 teaches a method for tumor or tumor vasculature imaging and destruction in humans (col. 2, ll. 45-56; col. 3, ll. 15-25; col. 21, l. 50- col. 22, l. 54). The method includes aminophospholipid-targeted constructs, which are either ligand based or antibody based, and further, are operatively attached to one or more diagnostic and/or therapeutic agents (col. 17, ll. 35-42), including angiopoietin-2 (col. 18, ll. 24-37). Thorpe et al. also teaches when the use of antibody-based targeting portions are

Art Unit: 3768

employed, monoclonal anti-aminophospholipid antibodies are generally preferred (col. 11, ll. 10-30). Thorpe et al. '694 further teaches pre-imaging tumors or tumor vasculature using the aminophospholipid-detectable material, where the detectable material includes radioactive compounds or chelates (col. 21, ll. 21-49; col. 87, l. 51- col. 88, l. 18; col. 89, l. 58- col. 90, l. 4). Thorpe et al. '694 also teaches specifically destroying tumor vasculature using the aminophospholipid construct (col. 5, ll. 45-62). Thorpe et al. '694 also teaches using cisplatin and Ricin A to treat the tumor or tumor vasculature (col. 25, ll. 1-12; col. 92, ll. 48-67). Thorpe et al. further provides a kit for providing these steps including means to administer the agents (col. 26, l. 4-24; col. 81, l. 63- col. 82, l. 6; col. 82, ll. 38-48).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stratmann et al, "Cell type-specific expression of angiopoietin-1 and angiopoietin-2 suggests a role in glioblastoma angigenesis", *American Journal of Pathology*, 153(5): pg. 1459-1466, November 1998.

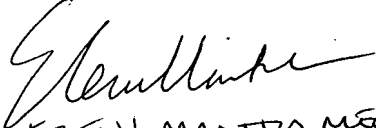
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellsworth Weatherby whose telephone number is (571) 272-2248. The examiner can normally be reached on M-F 8:30 a.m. - 5:00 p.m..

Art Unit: 3768

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on (571) 272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EW

  
ELENI MANTIS-MERCADER  
SPE 3768